

Montague Conservation Commission

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MEETING MINUTES

Thursday, May 14, 2015 – 6:30 pm

Upstairs Meeting Room, Town Hall, One Avenue A, Turners Falls, MA

Commissioners Present: Mark Fairbrother - Chair, Alex Peterkin, Addie Rose Holland, Justin Fermann and Donna Francis (6:40)

Commissioners Absent: Deb Picking and Sean Werle

Staff Present: Walter Ramsey - Agent

Mark Fairbrother called the meeting to order at 6:30 PM

Approval of Minutes:

Motion made by Justin Fermann to approve the April 9, 2015 minutes. Seconded by Addie Rose Holland.

Motion passed unanimously.

Public Hearing (Continuation): Notice of Intent #2015-02 filed by Tom Bergeron – Town of Montague to repair of a drainage wash-out immediately adjacent to Millers Falls Road and associated drainage improvements.

Continued from 4/9/15, pending receipt of written comments from Natural Heritage and Endangered Species Program (NHESP).

The agent presented NHESP's written comments: (NHESP file # 15-34236)

- In reviewing all the information and data in the database, the Division has determined that this project as proposed will not result in a prohibited "take" of state-listed rare species. This determination is a final decision of the Division of Fisheries and Wildlife pursuant to 321 CMR 10.18

The Commission reviewed the standard conditions.

Motion made by Addie Rose Holland to close the hearing and issue an Order of Conditions for NOI#2015-02 with standard conditions, as presented. Seconded by Alex Peterkin. **Motion passed unanimously.**

Public Hearing (Continuation): Notice of Intent #2015-03 filed by Gus Bakas – First Light Hydro Generating Company to remove a collapsing retaining wall and restoring a natural shoreline on the Connecticut River.

Guest: Bruce Griffin, Senior Scientist – New England Environmental

Continued from 4/9/15, pending receipt of written comments from Natural Heritage and Endangered Species Program (NHESP).

The agent presented NHESP's written comments:

According to NHESP, the project must be conditioned in order to avoid adverse effects to the Resource Area Habitats of state-listed wildlife species (310 CMR 10.37) and must be conditioned in order to avoid a prohibited Take of state-listed species (321 CMR Montague, NHESP 10-29037, 4/24/2015, 10.18(2)(a)).

To avoid adverse effects to the Resource Area Habitats of state-listed shorebirds and to avoid a prohibited Take of state-listed species the following conditions must be implemented:

- The signatory engineer (or landscape architect) of the Division-approved Plans of Record shall conduct a field visit to the site between 45 and 30 days prior to the start of work, and following any significant storm events after that visit, to determine (a) if the field conditions are properly reflected on the approved Plans of Record and (b) if the proposed work can be implemented as shown on the plans without increased impacts to the Resource Areas (as defined in 310 CMR 10.02) or a change to construction methodology or materials.
 - If no revisions are necessary, a brief written report shall be submitted to the Division.
 - If field conditions have changed so that elements of the project require revision:
 - At least fourteen (14) days prior to the initiation of work, the applicant's engineer (or landscape architect) shall submit to the Division a written narrative about how the design will be changed, including photos, sketch plans, and measurements of the area of the site that require revision. No work shall occur until written approval is received by the Division and all other relevant state or federal agencies.
 - Any revision(s) shall follow the same design principles as the approved project.
- Any future maintenance activities beyond minor maintenance and care to the proposed vegetation (e.g., seeding, planting, mulching, hand-pulling of invasives) as shown on Sheet 3.0 of the Plans of Record and any repair to the installed woody materials or cables described in the Plans of Record, will require review and written approval from the Division prior to the start of work.
- The Work shall be conducted in accordance with the NOI Narrative, Plans of Record, and in compliance with any conditions imposed on the Applicant relating to water quality per the Clean Water Act Section 401 Water Quality Certificate (314 CMR 9.00) to be issued by MA Department of Environmental Protection. All materials submitted in pursuit of or in compliance with the 401 Water Quality Certification or U.S. Army Corps of Engineering 404 compliance, shall be submitted to the Division in writing at the same time as the permitting agency.
- Provided these conditions are included in any approving Orders of Conditions issued by the Conservation Commission, and the applicant complies with all the above noted conditions, the project will not result in an adverse impact to the resource area habitats of state-listed wildlife species pursuant to the WPA and will not result in a prohibited Take pursuant to the MESA. A copy of the final Order of Conditions shall be sent to the NHESP simultaneously with the applicant as stated in the Procedures section of the WPA (310 CMR 10.05(6)(e)).

The commission agreed to add these conditions to the commission's standard order.

Motion made by Justin Fermann to close the hearing and issue an Order of Conditions for NOI#2015-03 as presented with NHESP comments and with one change made to the conditions to include the additional wording of 'landscape architect'. Seconded by Addie Rose Holland. **Motion passed.** Donna Francis abstained.

Public Hearing (Continuation): Notice of Intent #2014-03 filed by Franklin County Conservation District for the Sawmill River Rehabilitation Project at South Street. The South Street project includes the reestablishment of the banks at the South Street Bridge.

The Conservation Commission is still awaiting a general permit from the Army Corps of Engineers. This will be continued at the June 11, 2015 Conservation Commission Meeting. The applicant requested a continuation via email.

Mark Fairbrother declared the hearing continued to June 11 at 6:30.

Request for Determination of Applicability #2015-01 filed by First Light Hydro Generating Company to restore the existing stone-lined drainage ways at the toe of the dike, and the drainage channel that takes the collected seepage from these drainage ways to a pipe under Montague City Road. (Assessors Map 12 Lots 2 & 30 And Map 8 Lot 1).

Guest: Bruce Griffin - Scientist with New England Environmental

Bruce provided documented evidence of the existinence of the drainage channels. This was confirmed by a site visit with the Agent. Further, a letter from the previous Conservation Agent identified the drainage channel as an exempt.

The only ‘new’ work proposed is to daylight a failed culvert by removing a section of the old railroad berm. The plans show that this will provide a new increase in wetlands.

Justin Fermann raised the concern that practices of the 1900’s are likely not in line with best practices of 2015. Alex Peterkin raised concern that there is an otter den in the area. The area has become a highly functioning wetlands system. What will happen to the otters? And what will happen to the hydrology?

The applicant will still need to file a 401 Water Quality Cert and receive a permit from the Army Corps of Engineers. The commission wished to place the following conditions on the decision. The commission intends for the other regulating bodies and applicant to respect these conditions.

The findings:

- The proposed work is within a resource area and buffer zone, but appears to meet the exemption of 310CMR 10.02(2) (a) 2 as an activity conducted to replace a lawfully located structure used to provide electricity. (based on the submitted plans from 1916 and 1923)

Special Comments:

- The proposed work must utilize the best practical measures to avoid or minimize impacts to wetland resource areas outside the footprint of the drainage area. The commission strongly urges best management practices based on modern engineering (rather than 1900’s), as this is currently a highly functioning wetlands system
- The proposed work must not enlarge said facility, without a valid Order of Conditions.
- There is believed to be an otter den within the proposed work area. All efforts should be made to avoid or mitigate habitat impacts for this species
- The there is a concern that the altered surface hydrology will result in a net loss of the greater wetlands system. The impacts were unknown based on the information submitted in the RDA.
- There shall be no stockpiling of materials, fueling of vehicles, or storage of oil, fuel or other hazardous materials in resource areas or their buffer zones, including any areas within 100 feet of a Bordering Vegetated Wetland or intermittent stream or within 200 feet of a perennial stream.

- The Contractor shall provide watertight tanks or barrels to dispose of chemical pollutants, such as drained lubricating or transmission fluids, grease, soaps, concrete mixer washwater, or asphalt, produced as a by-product of the construction activities.
- Supplies for cleanup of oil, gasoline and other hazardous materials to be used during the project shall be kept onsite at all times from the start of the project to its completion. Spills of hazardous materials shall be reported immediately to the Department of Environmental Protection and the Commission and cleaned up in accordance with DEP guidelines.

Motion made by Justin Fermann to issue a Determination of Applicability RDA #2015-01 by First Light with a negative determination Box #5 with special conditions as stated. Seconded by Donna Francis.

Motion passed unanimously.

Agent Updates:

- Pipeline correspondence
Walter drafted a letter to send under the commissioner’s signatures as well as the Montague Legislative and Congressional Representatives, Governor Baker, Commissioner of Mass Fish and Game. The Commissioners signed the letter.
- Vegetation Management Notification Letters from Pan Am Railways, Inc. and New England Central Railroad
Both Railroads sent in their yearly operational plans to be filed with the Conservation Commission and the Planning & Conservation Department. The same firm handles both railroads.
- Single Environmental Impact Report- Cabot Taps Separation Project by National Grid
The Town is in receipt and review of the EIS. Copies are available at the Planning Office.

Motion made by Addie Rose Holland to adjourn the meeting Seconded by Justin Fermann. **Motion passed unanimously.**

Meeting adjourned at approximately 7:50 PM.

Approved by: _____ Date: _____